IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Bail Appl..No. 4165 of 2007()

CRIME NO. 288/07 OF PATHANAMTHITTA POLICE STATION

PETITIONERS/ACCUSED NO.1 TO 6

---

1. K.P.RAMESH, AGED 30 YEARS,
   S/O.PADMANABHAN ACHARI, KOLLANPARAMBIL HOUSE,
   NADUVILA MURI, THALAVADI VILLAGE, KUTTANADU TALUK,
   ALAPPUZHA DISTRICT.

2. PADMANABHAN ACHARI, AGED 85 YEARS,
   KOLLAMPARAMBIL HOUSE, NADUVILA MURI,
   THALAVADI VILLAGE, KUTTANADU TALUK.
   ALAPPUZHA DISTRICT.

3. CHELLAMMA, AGED 70 YEARS,
   W/O.PADMANABHAN ACHARI,
   KOLLANPARAMBIL HOUSE, NADUVILA MURI,
   THALAVADI VILLAGE, KUTTANADU TALUK,
   ALAPPUZHA DISTRICT.

4. VENU, AGED 50 YEARS,
   S/O.PADMANABHAN ACHARI,
   KOLLANPARAMBIL HOUSE, NADUVILA MURI,
   THALAVADI VILLAGE, KUTTANADU TALUK,
   ALAPPUZHA DISTRICT.

5. PRASAD, AGED 42 YEARS,
   S/O.PADMANABHAN ACHARI,
   KOLLANPARAMBIL HOUSE, NADUVILA MURI,
   THALAVADI VILLAGE, KUTTANADU TALUK,
   ALAPPUZHA DISTRICT.

6. REMANI, W/O.PRASAD, AGED 29 YEARS,
   KOLLANPARAMBIL HOUSE, NADUVILA MURI,
   THALAVADI VILLAGE, KUTTANADU TALUK,
   ALAPPUZHA DISTRICT.

BY ADV. SRI.GEORGE MATHEW
SRI.A.V.TELLES

RESPONDENTS: COMPLAINANT
---

1. STATE OF KERALA, REP. BY
CIRCLE INSPECTOR OF POLICE,
PATHANAMTHITTA, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
PATHANAMTHITTA, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 4165 of 2007

- -

Dated this the 10th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioners are husband and relatives of the husband of the defacto complainant. The crime has been registered on the basis of a private complaint filed by the defacto complainant, which the learned Magistrate had referred to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioners apprehend imminent arrest.

2. Marriage between the first petitioner and the defacto complainant took place on 9.9.2006. The learned counsel for the petitioners submits that there is some strain in the matrimony and because of such strain, reckless allegations have been raised against the petitioners. Strain in the matrimony has prompted the defacto complainant to raise such allegations. In these circumstances it is prayed that directions under Section 438 Cr.P.C. may be issued in favour of the petitioners.

3. The learned Prosecutor does not oppose the application seriously, but points out that there is an allegation that the defacto

complainant was assaulted and that she had suffered simple hurt on account of such bodily assault.

4. Having considered all the relevant inputs, I am satisfied that directions under Section 438 Cr.P.C. can be issued in favour of the petitioners subject to appropriate and strict conditions. In coming to this conclusion the inevitable reality that the arrest and incarceration of the petitioners is likely to mar all possibilities of reconciliation of marital relationship beyond repair does weigh with me. I am satisfied that subject to appropriate conditions, anticipatory bail can be granted to the petitioners.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 17.7.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 18.7.07 and

thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so. Petitioners 2 and 3, persons aged about 85 years and 70 years, need appear before the Investigating Officer after 18.7.07 only as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 17.7.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 17.7.2007 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 17.7.2007.

(R. BASANT)
Judge

tm